



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

DONALD T. DiFRANCESCO
Acting Governor

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

May 8, 2001

Mailing Address:

P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

David Anselmo, P.T.
1712 Crowfoot Lane
Williamstown, NJ 08094-8751

Re: **Modified Settlement Letter In Lieu of Formal
Disciplinary Action**

Dear Mr. Anselmo:

This is to inform you that DAG Maloney is no longer representing the New Jersey State Board of Physical Therapy ("the Board") and this matter has been assigned to me for resolution. In an effort to resolve this matter, the Board reviewed the submission from Mr. Molinari, Esquire at its April 24, 2001 meeting.

Based on the information supplied in Mr. Molinari's letter dated June 23, 1999 the Board has reconsidered its original position and has determined to reduce the penalties from \$8000 to \$5000 and to offer you another opportunity to settle this matter.

The original settlement letter has been modified to reflect the Board's determination to merge various charges together and to reduce the penalty for the charge of N.J.A.C. 13:39A-3.1 from \$2500 to \$1000. Additionally, the Board reduced the penalty for excessive fees (N.J.A.C. 13:39A-3.4(a) and 13:39-3.6) from \$2500 to \$1000 based on the results of the independent audit that was performed on the Paulson billing. The penalties for allowing a physical therapist assistant to practice beyond the scope of practice by performing patient evaluations and the penalty for failing to post the licenses remained unchanged at \$2000 and \$1000 respectively.

Please be advised that a copy of the modified settlement letter has been sent to Mr. Molinari, Esquire under separate cover. Kindly review this matter with your attorney and advise me of your

response in writing within fifteen (15) days of your receipt of this correspondence.

Upon review of the available information, your testimony before the Board and the Board's consideration of the investigative information, the Board has preliminarily found that probable cause exist to support a finding that you have violated:

N.J.A.C.13:39A-2.3, in that a physical therapist assistant engaged in practices which were outside her scope of permissible practice while under your supervision. Specifically, the physical therapist assistant performed revaluations which is impermissible practice by a physical therapist assistant.

N.J.A.C. 13:39A-3.4(a), in that the fees that you charge for services do not appear to be reasonable and commensurate with the status and experience of the physical therapist when compared with fees of physical therapists of like status and experience offering like services or treatment in the geographic area and shall be in accordance with the provisions of N.J.A.C.13:39A-3.6 prohibiting excessive fees.

N.J.A.C. 13:39A-3.6 which holds;

(a) A licensee of the Board of Physical Therapy shall not charge an excessive fee for services. A price is excessive when after review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.

(b) Factors which may be considered in determining whether a price is excessive include, but are not limited to the following:

- i. The time and effort required
- ii. The novelty and difficulty of the professional treatment
- iii. The skill required to perform the treatment properly
- iv. Any requirements or conditions imposed by the patient or by the circumstances
- v. The nature and length of the professional relationship with the patient

vi. The experience, reputation and ability of the licensee performing the services

vii. The nature and circumstances under which the services were provided

N.J.A.C. 13:39A-3.6(e) charging an excessive fee shall constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(e).

N.J.A.C. 13:39A-3.1 in that you failed to prepare and maintain for each patient a contemporaneous, permanent patient record that accurately reflects the patient contact with the physical therapist whether in an office, hospital or other treatment, evaluation or consultation setting.

N.J.A.C. 13:39A-3.5(a) requires display of the biennial renewal certificate in a public area in any office or health care facility at which the licensee practices physical therapy.

At this juncture, the Board has determined that the above violations are sufficient to warrant the initiation of formal disciplinary proceeding against you. Notwithstanding that determination the Board has proposed, prior to commencing any formal action, that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceeding should you agree to the following:

(i) To revise your record keeping practice to conform to the rules and regulations governing the practice of Physical Therapy under the Physical Therapy Practice Act of 1983 as memorialized in N.J.S.A. 9-37.11 et seq. and N.J.A.C. 13:39A.

(ii) To conform your global physical therapy practice to that which is set forth in the Physical Therapy Practice Act of 1983 as memorialized in N.J.S.A. 9-37.11 et seq. And N.J.A.C. 13:39A.

(iii) To cease and desist from permitting physical therapist assistants to engage in practices outside the scope of practice of a physical therapist assistant and which are a violation of N.J.A.C. 13:39A-2.3.

(iv) Payment of a civil penalty in the amount of \$5000 for the above violations:

N.J.A.C. 13:39A-2.3 a civil penalty of \$2000

N.J.A.C. 13:39A-3.5(a) a civil penalty of \$1000

N.J.A.C. 13:39A-3.6 & 3.4(a) a civil penalty of \$1000.

N.J.A.C. 13:39A-3.1 a civil penalty of \$1000.

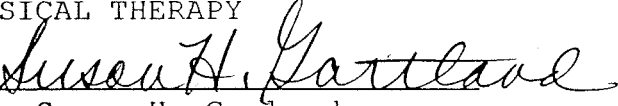
If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event that you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of a disciplinary proceeding. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will conduct that hearing at a date and time to be scheduled, or it will refer the matter to the Office of Administrative Law for hearing. You are advised, however, that in the event of that formal charges are filed, the Board may assess civil penalties in an amount greater than offered in settlement should the charges against you be sustained. Additionally, the Board may, if the facts are found to warrant, enter an order, requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez, who may be reached at 973-648-3696.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board office within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within the fifteen (15) days the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's office for the initiation of a formal disciplinary proceeding.

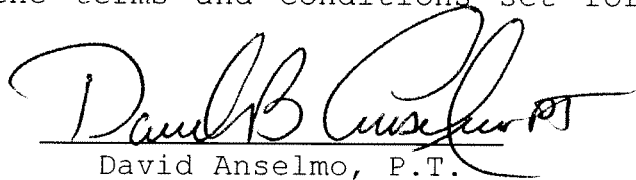
STATE OF NEW JERSEY BOARD OF
PHYSICAL THERAPY

By:


Susan H. Garland
Executive Director

ACKNOWLEDGMENT

I, David Anselmo, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter will become a public document upon its filing with the Board. I hereby agree to pay civil penalty in the amount of \$5000. (To be paid upon the signing of this acknowledgment) and to successfully comply with the terms and conditions set forth above.


David Anselmo, P.T.

Date: 5/17/01

cc: Michael Molinari, Esq.
Carmen A. Rodriguez
Deputy Attorney General
(Counsel to the Board)